

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AFFYMETRIX, INC.,

Plaintiff/Counter-
Defendant,

v.

ILLUMINA, INC.,

Defendant/Counter-
Plaintiff.

C.A. No. 04-901-JJF

REDACTED VERSION

**DECLARATION OF ROBERT J. LIPSHUTZ IN SUPPORT OF
AFFYMETRIX, INC.'S ANSWER TO ILLUMINA'S
BRIEF PER THE COURT'S JUNE 22, 2006, ORDER**

MORRIS, NICHOLS, ARSHT & TUNNELL LLP
Jack B. Blumenfeld (#1014)
Maryellen Noreika (#3208)
1201 N. Market Street
P.O. Box 1347
Wilmington, DE 19899-1347
(302) 658-9200
*Attorneys for Plaintiff/Counter-Defendant
Affymetrix, Inc.*

OF COUNSEL:

Michael J. Malecek
Daniel R. Reed
George C. Yu
Andrea L. Gross
AFFYMETRIX, INC.
6550 Vallejo Street, Suite 100
Emeryville, CA 94608
(510) 428-8500

Original Filing Date: July 7, 2006

Redacted Filing Date: August 1, 2006

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AFFYMETRIX, INC.'S ANSWER TO ILLUMINA'S BRIEF
PER THE COURT'S JUNE 22, 2006, ORDER

I, Robert J. Lipshutz, declare as follows:

1. I am Senior Vice President, Corporate Development and Emerging Markets for plaintiff Affymetrix, Inc. I have been employed continuously by Affymetrix since about April 1993. I have personal knowledge of all the facts contained in this declaration and, if called upon to do so, would and could testify competently thereto.
2. As discussed in my previous declaration filed in support of Affymetrix's opposition to Illumina's motion to dismiss, I was employed by Daniel H. Wagner & Associates, a mathematics, software, and operations consulting firm, before joining Affymetrix. I joined Daniel H. Wagner & Associates ("Wagner") in 1981. At the time I left Wagner in 1993, I had the title of Vice President.
3. As described above, Wagner was (and remains) a consulting firm whose business was selling research by contract – typically on an hourly basis.

REDACTED

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² All exhibit cites are to the exhibits attached to Affymetrix's Answer to Illumina's Supplemental Brief unless otherwise noted.

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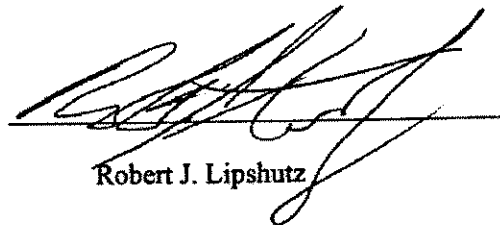
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29. In about April 1993, I was asked to join and did join Affymetrix, which had recently spun out of the Affymax Research Institute.

30. On or about January 31, 1995, I signed an assignment of rights of my ownership in the '716 patent to Affymax, who at that time had not yet transferred intellectual property to Affymetrix. (See Exh. 16, AVI_118804.) Subsequently, Affymax transferred its interest in certain intellectual property, including patents and patent applications to Affymetrix.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct. Executed July 7, 2006, in Palo Alto, California.



Robert J. Lipshutz

CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2006, I electronically filed the foregoing document using CM/ECF which will send notification of such filing(s) to the following:

Richard K. Herrmann
Morris, James, Hitchens & Williams LLP

I also certify that copies were caused to be served on August 1, 2006 upon the following in the manner indicated:

BY HAND

Richard K. Herrmann
Morris, James, Hitchens & Williams LLP
222 Delaware Avenue, 10th Floor
P.O. Box 2306
Wilmington, DE 19899-2306

BY FEDERAL EXPRESS

Marcus E. Sernel
Kirkland & Ellis LLP
200 East Randolph Drive
Chicago, IL 60601

/s/ Maryellen Noreika
Maryellen Noreika (#4601)
1201 N. Market Street
P. O. Box 1347
Wilmington, DE 19899-1347
(302) 658-9200
mnoreika@mnat.com